

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

**Proposing rule making related to psychiatric medical institutions for children (PMIC)
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 41, “Psychiatric Medical Institutions for Children (PMIC),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135H.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135H.10.

Purpose and Summary

The Department completed a comprehensive review of Chapter 41 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making eliminates redundancy within Chapter 41 by referencing Iowa Code chapter 135H and pertinent federal law, and updates the process for renewal applications and the purchase, transfer, assignment, or lease of a PMIC to conform to current practices.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 31, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—41.1(135H) as follows:

481—41.1(135H) Definitions. The definitions set forth in Iowa Code section 135H.1 are incorporated herein. As used in this chapter:

“*Nurse practitioner*” means a registered professional nurse who is currently licensed to practice in the state, who meets state requirements and is currently licensed to practice nursing under the nursing board[655] rules in the Iowa Administrative Code.

~~“Physician” means a person licensed to practice medicine and surgery, osteopathic medicine and surgery or osteopathy under Iowa Code chapter 148, 150 or 150A.~~

“*Physician assistant*” means a person licensed to practice under Iowa Code chapter 148C.

~~“Psychiatric services” means services provided under the direction of a physician which address mental, emotional, medical or behavioral problems.~~

~~“Resident” means a person who is less than 21 years of age and has been admitted by a physician to a psychiatric medical institution for children.~~

ITEM 2. Amend rule 481—41.2(135H) as follows:

481—41.2(135H) Application for license. In order to obtain an initial license for a PMIC, the applicant must comply with Iowa Code chapter 135H and the rules in this chapter. Each applicant must submit the following documents to the department:

1. and 2. No change.
3. A floor plan of each floor of the facility on 8½" by 11" paper showing:
 - Room areas in proportion;₂
 - Room dimensions;₂
 - Numbers for all rooms including bathrooms;₂
 - A designation of use for each room;₂ and
 - Window and door locations;
4. No change.
5. The PMIC license fee set forth in Iowa Code section 135H.5; and
6. Evidence of:

~~Accreditation by the joint commission on accreditation of health care organizations (JCAHO) in accordance with Iowa Code section 135H.6(1)“b”;~~

Department of public health certificate of need;

~~Department Approval of the department of human services determination of approval in accordance with Iowa Code section 135H.6(1)“e”;~~ and

~~Three years under the direction of an agency which has operated a facility:~~

- ~~Licensed under Iowa Code section 237.3(2)“a,” or~~

~~• Providing services exclusively to children or adolescents and the facility meets or exceeds the requirements for licensure under Iowa Code section 237.3(2)“a.”~~

This rule is intended to implement Iowa Code sections 135H.4, and 135H.5, and 135H.6.

ITEM 3. Amend rule 481—41.3(135H) as follows:

481—41.3(135H) Renewal application or change of ownership. In order to renew a license or change ownership of the psychiatric medical institution for children, the applicant must submit to the department:

1. A completed application form 30 days before the renewal date or before the date of the ownership change; and
2. The PMIC license fee; and
3. ~~A copy of any revisions to the department of human services application for a comprehensive care residential facility license.~~

41.3(1) Denial, suspension or revocation of a license. The department may deny, suspend or revoke a PMIC license for any of the following reasons: reasons set forth in Iowa Code section 135H.8.

- ~~a. The applicant or licensee failed to comply with the rules in this chapter;~~
- ~~b. A resident is a victim of cruelty or neglect because of the acts or omissions of the licensee;~~
- ~~c. The licensee permitted, aided or abetted in the commission of an illegal act in the institution; or~~
- ~~d. The applicant or licensee attempted to obtain or retain a license by fraudulent means, misrepresentation, or by submitting false information.~~

The department will issue notice of denial, suspension or revocation by certified mail or by personal service.

41.3(2) No change.

This rule is intended to implement Iowa Code sections 135H.8 and 135H.9.

ITEM 4. Amend rule 481—41.4(135H), introductory paragraph, as follows:

481—41.4(135H) Licenses for distinct parts. ~~Separate licenses may be issued for clearly identifiable parts of a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1. A distinct part must contain contiguous rooms in a separate wing or building or be on a separate floor of the facility. Distinct parts shall provide care and services of separate categories. Separate licenses may be issued for distinct parts of a health care facility which are clearly identifiable, containing contiguous rooms in a separate wing or building or on a separate floor of the facility, and which provide care and services of separate categories.~~ The following requirements shall be met for licensing a distinct part:

ITEM 5. Amend rule 481—41.6(135H) as follows:

481—41.6(135H) Notice to the department.

41.6(1) The department shall be notified at the times stated when the following events are expected to occur:

- a. Thirty days before addition, alteration or new construction is begun in the PMIC or on the premises;
- b. Thirty days in advance of closure of the PMIC; or change in the category of license sought; and
- c. Within two weeks of any change of administrator; and
- ~~d. Within 30 days when a change in the category of license is sought.~~

41.6(2) Prior to the purchase, transfer, assignment or lease of a PMIC, the licensee shall:

- a. Inform the department in writing of the pending sale, transfer, assignment or lease of the facility; and
- b. Inform the department in writing of the name and address of the prospective purchaser, transferee, assignee or lessee at least 30 days before the sale, transfer, assignment or lease is complete; and
- ~~c. Submit written authorization to the department permitting the department to release information of whatever kind from department files concerning the licensee's PMIC to the named prospective purchaser, transferee, assignee or lessee.~~

ITEM 6. Amend rule 481—41.9(135H) as follows:

481—41.9(135H) Certification of need for services. All recipients of services shall have written certification which ensures the following:

1. Ambulatory care resources available in the community do not meet the treatment needs of the recipient;
2. Proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician; and
3. The services can reasonably be expected to improve the recipient's condition or prevent further regression so services will no longer be needed.

Certification of need shall be completed ~~by the team described in subrules 41.13(2) and 41.13(3).~~ Certification must be made at the time of admission by an independent team for Medicaid recipients. For emergency admissions, the certification must be made by the team described in 41.13(135H) within 14 days after admission. ~~If an individual applies for Medicaid while in a PMIC, certification of need must be made by the team described in 41.13(135H) before a Medicaid agency authorizes payment in accordance with 42 CFR Sections 441.152 and 441.153.~~

ITEM 7. Amend paragraph **41.16(2)“b”** as follows:

- b.* Names and identities of all complainants; and